



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.
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21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves Defendants' letter motion at Dkt. 539 to compel Plaintiff Hedgeye to unredact certain portions of the Bastick expert report that were redacted and designated for Attorneys-Eyes-Only ("AEO") by Hedgeye. The Court previously has ruled on this issue (see Dkt. 536) and has again reviewed the report in its entirety and carefully considered the parties' submissions, including their competing views of what should be redacted as AEO. (See Dkt. 551 and Ex. A.)

The Court is separately filing under seal a copy of the Bastick report in which the Court has indicated by yellow highlighting what may be properly redacted as AEO. To be clear, the instant ruling concerns only the extent to which the material at issue may be seen by Defendants (but still maintained as Confidential consistent with the protective order governing this case). The Court makes no finding as to whether any material should not be designated as Confidential or be given no designation at all. Additionally, the Court's determination is not a merits determination of whether any particular material does or does not constitute a Hedgeye trade secret.

Hedgeye requests that "if the Court is inclined to permit Defendants to view the portions of the [Bastick] report that Hedgeye has marked AEO," the Court stay its decision

so that Defendants can consider appealing to the District Judge. As the parties will see, the Court largely, although not entirely, agrees with the redactions made by Hedgeye. As to any portion the Court has not indicated for redaction as AEO but which Hedgeye has designated for redaction as AEO, the Court grants a stay of 48 hours of this decision so that Hedgeye can lodge an appeal if it so desires. If an appeal is taken, the stay will remain in place solely as to the portions covered by the appeal until resolved by the District Judge. The stay does not apply to any portion of the Court's AEO designations for unredaction that Hedgeye does not appeal. If Hedgeye does not appeal, then all portions of the Bastick report that have not been endorsed by the Court as AEO but which Hedgeye has redacted, shall be immediately unredacted for purposes of disclosure to Defendants.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: May 30, 2023
New York, New York

Copies transmitted this date to all counsel of record.